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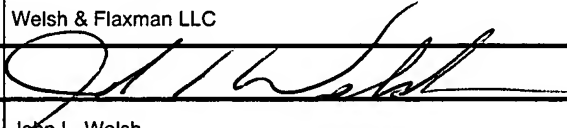
PTO/SB/21 (09-04)

Approved for use through 07/31/2006. OMB 0651-0031
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OIP TRANSMITTAL FORM (to be used for all correspondence after initial filing) JUL 03 2006 AMERICAN PATENT AND TRADEMARK OFFICE	Application Number	10/765,106
	Filing Date	01/28/2004
	First Named Inventor	Richard D. Ferris
	Art Unit	3711
	Examiner Name	Blau, Stephen Luther
	Attorney Docket Number	FERR-004
Number of Pages in This Submission	68	

ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance Communication to TC
<input checked="" type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
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SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT		
Firm Name	Welsh & Flaxman LLC	
Signature		
Printed name	John L. Welsh	
Date	7/3/06	Reg. No. 33,621

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FEE TRANSMITTAL

For FY 2006

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 250.00

Complete if Known

Application Number	10/765,106
Filing Date	01/28/2004
First Named Inventor	Richard D. Ferris
Examiner Name	Blau, Stephen Luther
Art Unit	3711
Attorney Docket No.	FERR-004

METHOD OF PAYMENT (check all that apply)

☒ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____☒ Deposit Account Deposit Account Number: 01-2221 Deposit Account Name: Welsh & Flaxman LLC

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☒ Credit any overpayments

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FEE CALCULATION (All the fees below are due upon filing or may be subject to a surcharge.)

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description

Each claim over 20 (including Reissues)

Each independent claim over 3 (including Reissues)

Multiple dependent claims

Small Entity	
Fee (\$)	Fee (\$)
50	25
200	100
360	180
Multiple Dependent Claims	
Fee (\$)	Fee Paid (\$)

Total Claims	Extra Claims	Fee (\$)	Fee Paid (\$)
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- 20 or HP = _____ x _____ = _____

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims	Extra Claims	Fee (\$)	Fee Paid (\$)
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- 3 or HP = _____ x _____ = _____

HP = highest number of independent claims paid for, if greater than 3.

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
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- 100 = _____ / 50 = _____ (round up to a whole number) x _____ = _____

4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): Appeal Brief

Fees Paid (\$)

250.00

SUBMITTED BY

Signature		Registration No. (Attorney/Agent) 33,621	Telephone 703 920 1122
Name (Print/Type)	John L. Welsh	Date	7/3/06

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Application of: Richard D. Ferris

Group Art Unit: 3711

Serial No.: 10/765,106

Examiner: Blau, Stephen L.

Filed : 01/28/2004

Title : HANDLE CONFIGURATION FOR A PUTTER TYPE GOLF CLUB

APPEAL BRIEF

Commissioner of Patents and Trademarks
PO Box 1450
Alexandria, VA 22313-1450

Sir:

REAL PARTY IN INTEREST

Richard D. Ferris is the real party in interest in the above referenced patent application.

RELATED APPEALS AND INTERFERENCES

Neither Appellant's representative nor Appellant are aware of any related appeals and/or interferences affected by or having a bearing on the Board's decision in the pending appeal.

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STATUS OF CLAIMS

Claims 1-15 are currently pending and stand finally rejected. Appellant accordingly appeals the Examiner's final rejection of claims 1-15.

STATUS OF AMENDMENTS

No amendments have been filed subsequent to the Final Rejection. As to the amendments filed prior to the Final Rejection, all amendments appear to have been entered and considered.

SUMMARY OF THE CLAIMED SUBJECT MATTER

Claim 1, 6 and 11 are the only independent claims involved in the present Appeal. Only dependent claims 3, 4, 5, 8, 9, 10, 14 and 15, which respectively depend from claims 1, 6 and 11 are argued separately and, therefore, these claims are addressed in the present Summary in accordance with 37 C.F.R. 41.37(c)(1)(v). The other dependent claims are not argued separately and are, therefore, not addressed in the Summary.

In independent claim 1 Appellant has claimed a putter type golf club 10 including a club head 12 having a ball striking face 15 lying in a first plane and a shaft 14 having an upper end and a lower end connected to the club head 12 (Specification, page 19, lines 7-11). The golf club includes an elongated handle 16 having an upper edge and a lower edge. The handle 16 is attached to the shaft 14 and has a generally oval, cross-sectional shape along the entire handle 16 between said upper edge and said lower edge. The generally oval, cross-sectional shape of said elongated handle 16 includes a first rounded front edge 18 and a second rounded rearward edge 20 defining a cross-sectional, length dimension of said handle 16. A first flat side surface 22 and a second opposing flat

side surface 24 define a width dimension of said handle. The cross-sectional, length dimensions are perpendicular to the first plane of said ball striking face 15. The handle is further defined by the first rounded forward edge 18 having a first radius and the second rounded rearward edge 20 having a second smaller radius. The flat side surfaces 22, 24 gradually taper closer, each to the other, in a forward to rearward edge direction (Specification, page 10, line 3 to page 11, line 1). The upper edge of the handle 16 includes alignment indicia 28 thereon, defined by at least a first alignment line 30, 32 in the direction perpendicular to the first plane of the ball striking face 15 and a second alignment line 30, 32 on the upper edge of the handle 16. The second alignment line is perpendicular to the first alignment line 30, parallel to the first plane of said ball striking face 15. The first alignment line 30 and said second alignment line 32 intersect to form four angles (Specification, page 11, lines 2-13).

In claim 3, which depends from claim 1, Appellant has claimed a putter type golf club wherein the handle extends at least half of the overall length of the golf club 10 from said club head 12 to said upper end of said shaft 14 (Specification, page 9, lines 7-22).

In claim 4, which depends from claim 1, Appellant has further defined the alignment indicia 28, whereas the first alignment line 30 is longer than the second alignment line 32 (see Figure 1).

In claim 5, which depends from claim 1, Appellant has further defined the alignment indicia 28, whereas the first alignment line 30 and second alignment line 32 intersect to form a cross (Specification, page 11, lines 2-13).

In independent claim 6 Appellant has claimed an improvement for putter type golf club 10 in the form of an elongated handle 16 having an upper edge and a lower edge attached to a shaft 14 and the handle 16 having a generally oval, cross-sectional shape along its entire length. The upper

edge of the handle 16 includes alignment indicia 28, defined by at least a first alignment line 30 in a direction perpendicular to the plane of the ball striking face 15 and a second alignment line 32 perpendicular to said first alignment line 30 and parallel to the plane of said ball striking face 15. Further, the first and second alignment lines 30, 32 intersect to form four angles (Specification, page 9, line 7 to page 11, line 1).

In claim 8, which depends from claim 6, Appellant has claimed a putter type golf club wherein the handle 11 extends at least half of the overall length of the golf club 10 from said club head 10 to said upper end of said shaft 14 (Specification, page 9, lines 17-22).

In claim 9, which depends from claim 6, Appellant has further defined the alignment indicia 28, whereas the first alignment line 30 is longer than the second alignment line 32 (see Figure 1).

In claim 10, which depends from claim 6, Appellant has further defined the alignment indicia 28 whereas the first alignment line 30 and second alignment line 32 intersect to form a cross (Specification, page 11, lines 2-13).

In independent claim 11 Appellant has claimed a putter type golf club 10 including a club head 12 having a ball striking face 15 lying in a first plane and a shaft 14 having an upper end and a lower end connected to the club head 12. The golf club 10 includes an elongated handle 16 having an upper edge and a lower edge with the lower edge attached to a shaft 14. The upper edge of the handle 16 includes alignment indicia 28, defined by at least a first alignment line 30 in a direction perpendicular to the plane of the ball striking face 15 and a second alignment line 32 perpendicular to said first alignment line 30 and parallel to the plane of said ball striking face 15. Further, the first and second alignment lines 30, 32 intersect to form four angles (Specification, page 9, line 7 to page 11, line 1).

In claim 14, which depends from claim 11, Appellant has further defined the alignment indicia 28 whereas the first alignment line 30 is longer than the second alignment line 32 (see Figure 1).

In claim 15, which depends from claim 11, Appellant has further defined the alignment indicia 28, whereas the first alignment line 30 and second alignment line 32 intersect to form a cross (Specification, page 11, lines 2-13).

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

1. Whether claims 1-15 stand properly rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-5 of U.S. Patent No. 6,723,001.
2. Whether claims 1, 2, 4 and 5 stand properly rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,511,386 to Cacicedo in view of U.S. Patent No. 6,506,128 to Bloom, Jr., U.S. Patent No. 5,152,533 to Radakovich and U.S. Patent No. 5,085,891 to Takeuchi.
3. Whether claim 3 stands properly rejected under 35 U.S.C. § 103(a) as being unpatentable over Cacicedo in view of Bloom, Radakovich and Takeuchi and further in view of U.S. Patent No. 5,779,559 to Eberle or U.S. Patent No. 4,426,083 to Dishner, Jr.
4. Whether claims 6, 7, 9 and 10 stand properly rejected under 35 U.S.C. § 103(a) as being unpatentable over Bloom, Jr. in view of Radakovich and Takeuchi.
5. Whether claim 8 stands properly rejected under 35 U.S.C. § 103(a) as being unpatentable over Bloom in view of Radakovich and Takeuchi and further in view of Eberle or Dishner, Jr.
6. Whether claims 11, 12 and 15 stand properly rejected under 35 U.S.C. § 103(a) as being unpatentable over Radakovich in view of Takeuchi.
7. Whether claim 14 stands properly rejected under 35 U.S.C. § 103(a) as being unpatentable over Radakovich and Takeuchi and further in view of Bloom.

ARGUMENTS

I. CLAIMS 1-15 ARE NOT UNPATENTABLE UNDER THE JUDICIALLY CREATED DOCTRINE OF OBVIOUSNESS DOUBLE PATENTING BASED UPON CLAIMS 1-5 OF U.S. PATENT NO. 6,723,001.

With regard to the rejection of claims 1-15 under the judicially created doctrine of obviousness-type double patenting, this rejection is deemed improper as all of the pending claims include the alignment system limitation. This limitation is patentably distinct over the shape that was claimed in claims 1-5 of U.S. Patent No. 6,723,001. As such, Appellant respectfully requests that this rejection be reversed.

II. CLAIMS 1, 2, 4 AND 5 STAND IMPROPERLY REJECTED UNDER 35 U.S.C. § 103(A) AS BEING UNPATENTABLE OVER U.S. PATENT NO. 6,511,386 TO CACICEDO IN VIEW OF U.S. PATENT NO. 6,506,128 TO BLOOM, JR., U.S. PATENT NO. 5,152,533 TO RADAKOVICH AND U.S. PATENT NO. 5,085,891 TO TAKEUCHI.

With regard to the pending independent claims 1, 6 and 11, and the rejections based upon prior art, Appellant has set forth a unique alignment system for putters which is neither disclosed, taught nor shown in the prior art. The combination of references cited in the Office Action fails to teach, individually or when combined, the claimed intersecting lines on the end of a golf club handle.

Regardless of whether one considered the rejection of independent claim 1 based upon the combination of Cacicedo in view of Bloom Jr., Radakovich and Takeuchi, the rejection of independent claim 6 based upon the combination of Bloom, Jr. in view of Radakovich and Takeuchi, or the rejection of independent claim 11 based upon Radakovich and Takeuchi, the Examiner relies upon the combination of Radakovich and Takeuchi to teach Appellant's alignment

system and the remaining references to teach Appellant's claimed handle shape. That is, since all of the claims include the alignment system limitations, all of the rejections set forth in the Office Action have relied upon Radakovich in combination with Takeuchi to teach Appellant's alignment system. With this in mind, Appellant will address the combination of Radakovich and Takeuchi in relation to the alignment system claimed in independent claim 1, 6 and 11 in this heading, instead of repeating the arguments under additional headings.

It is Appellant's opinion all of these rejections are improper as Radakovich, when combined with Takeuchi, fails to meet all of the claimed limitations. In addition to not disclosing the claimed invention, Radakovich and Takeuchi are focused upon different concepts relating to golf clubs, and in the Appellant's opinion are, therefore, not obvious to combine.

In establishing the law governing obviousness-type rejections, the Supreme Court in *Graham v. John Deere*, 383 U.S. 1, 148 USPQ 459 (1966), stated:

Under § 103, the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved. Against this background, the obviousness or nonobviousness of the subject matter is determined. Such secondary considerations as commercial success, long felt but unsolved needs, failure of others, etc., might be utilized to give light to the circumstances surrounding the origin of the subject matter sought to be patented. As indicia of obviousness or nonobviousness, these inquiries may have relevancy. . . This is not to say, however, that there will not be difficulties in applying the nonobviousness test. What is obvious is not a question upon which there is likely to be uniformity of thought in every given factual context. The difficulties, however, are comparable to those encountered daily by the courts in such frames of reference as negligence and scienter, and should be amenable to a case-by-case development. We believe that strict observance of the requirements laid down here will result in that uniformity and definitiveness which Congress called for in the 1952 Act.

With the foregoing in mind, the U.S. Patent & Trademark Office has determined that a *prima facie* case of obviousness is established by meeting three basic criteria. First, the Examiner must show

some suggestion or motivation to modify the reference or to combine reference teachings. Second, the Examiner must show a reasonable expectation of success in modifying the primary reference based upon the teachings of the prior art. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. Support for the proposed modification and the reasonable expectation of success must be found in the prior art. MPEP 706.02(j). It has further been determined that "[w]here a reference is relied on to support a rejection, whether or not in a minor capacity, that reference should be positively included in the statement of the rejection." See *In re Hoch*, 428 F.2d 1341, 1342 n.3 166 USPQ 406, 407, n. 3 (CCPA 1970).

The alignment system in Radakovich is for sighting a club relative to a target and not aligning the club relevant to the ball, which is the purpose of Appellant's claimed alignment system. The alignment system in Takeuchi is for fitting the grip on the rear portion of the club shaft so that a fitting angle of the grip relative to a club face is accurate and easily adjusted. Thus the alignment systems of Appellant, Radakovich and Takeuchi are all for different purposes.

With regard to Radakovich, the so-called first alignment line 48 (Fig. 5) is not perpendicular to the unidentified boundary line, nor is it perpendicular to arrow 46. There is no disclosure in Radakovich as to a boundary line structure and/or its function. Thus, the Examiner merely assumes the boundary line is parallel to the ball striking face, as Radakovich itself does not teach this. Radakovich at best teaches a sighting device with meeting lines 92 and 94 (Fig. 4), but they do not intersect to form four angles as claimed. The "T" formed in Radakovich is to assist the golfer in sighting down the fairway as he or she establishes a position for striking a golf ball and does not include two lines intersecting to form four angles (underline added for emphasis). Therefore, this reference alone does not meet the limitations of claims 1, 6 and 11.

To overcome the major shortcomings of Radakovich, the Examiner suggests that it would be obvious to replace the “T” of Radakovich with a cross as claimed by Appellant in view of the teaching of Takeuchi. However, Takeuchi also fails to teach a cross or intersecting lines. The Examiner relies upon Takeuchi to teach “alignment lines for grip positioning on a shaft being on a flat surface of a grip and being indicia (Fig. 5, Col. 4, lines 11-16) filling up the entire length and width of a grip top flat surface except the center.” The language of Col. 4., lines 11-16, reads as follows: “The graduations 5 may be either grooves defined in or ridges formed on the rear end surface 3. The grooves or ridges of the graduations 5 may be colored with an applied paint. Of course, the graduations 5 may be formed with markings written with a color paint on the rear end surface 3 of the grip 1.” Upon reviewing this language, Fig. 5 of Radakovich, the entire specification and drawings of Takeuchi, Appellant can find no teaching of intersecting lines. Filling up the entire length and width with indicia is not what Appellant has claimed. Appellant claims intersecting lines forming four angles and neither Radakovich nor Takeuchi show or teach intersecting lines. The Examiner has, therefore, failed to set forth a *prima facie* rejection in accordance with 35 USC 103(a). The Examiner’s logic that Takeuchi shows alignment lines on both halves of a grip end and that Takeuchi would not need to have alignment lines on both halves fails to address the claimed limitation of intersecting lines forming four angles.

The Examiner overlooks the fact neither of these references disclose or suggest intersecting lines forming four angles as alignment indicia on the butt end of a putter or, for that matter, any type of golf club. The dictionary definition of intersecting recited by the Examiner is deemed moot as Appellant clarified his definition by including the language to form four angles.

It is Appellant's opinion these two references aren't even combinable and, even if somehow combined, don't result in the claimed invention. The motivation for combining as proposed by the Examiner makes no sense and is unsupported by both the prior art and what is known by those skilled in the golf industry. The sighting device and lines of Radakovich do form indicia which take up the entire length, width and center of a grip top flat surface. As such, how and why does Takeuchi need to teach Radakovich to have the alignment lines being indicia taking up the entire length, width and center of a grip top flat surface to minimize the number of parts needed for a grip and in order to be more visible? The indicia of Radakovich fills up as much of the butt end of the club as does that of Takeuchi, so Takeuchi is teaching Radakovich what he already knew. Again, neither knew to form intersecting lines as claimed and intersecting lines would destroy the invention of Takeuchi.

Takeuchi does show lines 5a, 6, 7 and 8 on the end of a golf club handle, but none of these lines intersect. In fact, Takeuchi has no desire for the indicia lines to intersect as intersecting lines would be contrary to Takeuchi's invention. The length of Takeuchi's lines are different for a reason, this is so one can easily distinguish the angular intervals when adjusting the grip's position. For example, short lines 8 indicate 11.25 degrees, slightly longer lines 7 indicate 22.5 degrees, long lines 6 indicate 45 degrees and lines 5a function as reference lines. When fitting the grip of Takeuchi on a shaft, the angle of the grip can be easily determined by knowing the distinction between the length of gradation lines. However, if the lines intersected they would no longer function as gradations, as the lines would not be readily distinguishable from one another.

Modifying Radakovich as suggested in the Office Action would also destroy the invention contemplated by Radakovich. That is, converting the sighting member into indicia lines statically

affixed to the butt end as proposed by the Examiner would render the device inoperative, as the user would no longer be able to simply adjust the device for sighting at a desired loft. As one can surely appreciate, the loft required to hit a target is not the same for every golf shot.

Specifically, the cross of the present invention is designed to provide the golfer with both forward and rearward alignment as he or she stands over a putt. This assists the golfer in properly aligning both the back swing and the forward swing during his or her putt; both being critical to proper putting. In contrast, Radakovich is only concerned with sighting down the fairway in a forward direction. As such, Radakovich only provides a “T”. The embodiment shown in Figure 5 shows a sighting device where the rear portion of the sighting device is blackened out. This appears to be designed so that the attention of the golfer is always directed in a forward direction. Similarly, Figure 4 employs a “T” with nothing along the backside thereof. Once again, this is designed to provide the golfer with forward facing sight to direct a golfer’s eyes in the forward direction. Thus, by providing a cross on Radakovich, the golfer would not be solely directed in a forward direction down the fairway, but would be directed to look in both a rearward and a forward direction. This would destroy or at least hinder the purpose of the sighting device disclosed by Radakovich. As such, it is Appellant’s opinion this assertion is improper and the rejection of claims 1-15 should be reversed.

With regard to claims 4 and 5 none of the references cited show or teach intersecting lines forming four angles as previously stated. In fact, none of the cited references show or teach intersecting lines wherein one is longer than the other (claim 4) or intersecting lines forming a cross (claim 5). Therefore, Appellant respectfully requests the rejection be reversed.

III. CLAIM 3 IS NOT UNPATENTABLE AND THE OUTSTANDING REJECTIONS BASED UPON BLOOM, RADAKOVICH, TAKEUCHI, EBERLE AND DISHNER ARE IMPROPER.

Claim 3, which depends from claim 1, further defines the unique shape of his handle. The proposed combination of 4 different references Cacicedo, Bloom, Eberle or Dishner fail to even produce Appellant's claimed shape. The grip in Cacicedo is tapered. The grip in Bloom is tapered and has a larger cross-section at its upper end than at its lower end. Thus, both Cacicedo and Bloom are improperly relied upon to teach a handle having the same cross-sectional shape along its entire length. The grip in Eberle is neither elliptical nor oval. The grip in Dishner is not oval, but in fact is circular with opposing flattened surfaces terminating before reaching either the top or bottom of the grip. Therefore, any combination of these references fails to meet the claimed shape of Appellant's handle and Appellant respectfully request the rejection of claim 3 be reversed.

IV CLAIMS 6, 7, 9 AND 10 STAND IMPROPERLY REJECTED UNDER 35 U.S.C. § 103(A) AS BEING UNPATENTABLE OVER BLOOM, JR. IN VIEW OF RADAKOVICH AND TAKEUCHI.

These claims are believed to overcome the prior art for the reasons presented above with regard to claims 1, 4 and 5 as the same two references Radakovich and Takeuchi are improperly relied upon to teach Appellant's claimed alignment indicia, as discussed in detail above. Further, Bloom is improperly relied upon to teach the handle shape and is then stretched somehow to be combined with Radakovich and Takeuchi to teach intersecting lines wherein one is longer than the other (claim 9) or intersecting lines forming a cross (claim 10). That is, just because the shape is believed to be shown it would be obvious to put the made up intersecting lines created by the

combination of Radakovich and Takeuchi onto the end of the handle of Bloom such that one line is longer than the other and a cross is formed. Therefore, Appellant respectfully requests the rejection be reversed.

V. CLAIM 8 STANDS IMPROPERLY REJECTED UNDER 35 U.S.C. § 103(A) AS BEING UNPATENTABLE OVER BLOOM IN VIEW OF RADAKOVICH AND TAKEUCHI AND FURTHER IN VIEW OF EBERLE OR DISHNER JR.

Claim 8 which depends from claim 6 further defines the unique shape of his handle. The proposed combination of 3 different references Bloom, Eberle or Dishner fails to even produce Appellant's claimed shape. The grip in Bloom is tapered and has a larger cross-section at its upper end than at its lower end. Thus, Bloom is improperly relied upon to teach a handle having the same cross-sectional shape along its entire length. The grip in Eberle is neither elliptical nor oval. The grip in Dishner is not oval, but in fact is circular with opposing flattened surfaces terminating before reaching either the top or bottom of the grip. Therefore, any combination of these references fails to meet the claimed shape of Appellant's handle and Appellant respectfully request the rejection of claim 8 be reversed.

VI. CLAIMS 11, 12 AND 15 STAND IMPROPERLY REJECTED UNDER 35 U.S.C. § 103(A) AS BEING UNPATENTABLE OVER RADAKOVICH IN VIEW OF TAKEUCHI.

These claims are believed to overcome the prior art for the reasons presented above with regard to claims 1 and 5 as the same two references Radakovich and Takeuchi are improperly relied upon to teach Appellant's claimed alignment indicia, as discussed in detail above. Further,

Radakovich and Takeuchi fail to show or teach intersecting lines forming a cross (claim 15).

Therefore, Appellant respectfully requests the rejection be reversed.

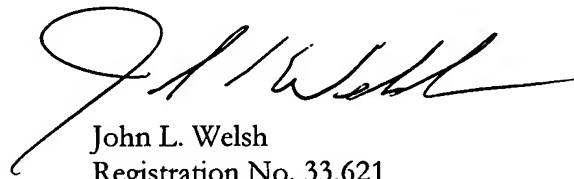
VII. CLAIM 14 STANDS IMPROPERLY REJECTED UNDER 35 U.S.C. § 103(A) AS BEING UNPATENTABLE OVER RADAKOVICH AND TAKEUCHI IN VIEW OF BLOOM.

This claim is believed to be allowable over the prior art for the reasons presented above with regard to claims 1 and 4 as the same two references Radakovich and Takeuchi are improperly relied upon to teach Appellant's claimed alignment indicia, as discussed in detail above. Radakovich and Takeuchi fail to show or teach intersecting lines wherein one is longer than the other (claim 14). Further, Bloom is improperly relied upon to teach the handle shape and is then stretched somehow to be combined with Radakovich and Takeuchi to teach intersecting lines wherein one is longer than the other (claim 14). That is, just because the shape of the handle is believed to be shown it would be obvious to put the improperly made up intersecting lines created by the combination of Radakovich and Takeuchi onto the end of the handle of Bloom such that one line is longer than the other. Therefore, Appellant respectfully requests the rejection be reversed.

VIII. CONCLUSION

In conclusion, Appellant has now shown that the references cited by Examiner neither disclose nor suggest the claimed golf club. Therefore, it is respectfully requested that the outstanding rejection of claims 1-15 be reversed.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'J. L. Welsh', with a long horizontal flourish extending to the right.

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CLAIMS APPENDIX

1. (Previously Previously) A putter type golf club including a club head having a ball striking face lying in a first plane and a shaft having an upper end and a lower end connected to the club head, wherein the improvement comprises:

an elongated handle having an upper edge and a lower edge, said handle being attached to said shaft and having a generally oval, cross-sectional shape along the entire handle between said upper edge and said lower edge;

said generally oval, cross-sectional shape of said elongated handle including a first rounded front edge and a second rounded rearward edge defining a cross-sectional, length dimension of said handle; a first flat side surface and a second opposing flat side surface defining a width dimension of said handle; said cross-sectional, length dimension being perpendicular to said first plane of said ball striking face; said handle being further defined by said first rounded forward edge having a first radius and said second rounded rearward edge having a second smaller radius; said flat side surfaces gradually tapering closer, each to the other, in a forward to rearward edge direction; said upper edge of said handle including alignment indicia thereon, defined by at least a first alignment line in the direction perpendicular to the first plane of said ball striking face and a second alignment line on said upper edge of said handle, said second alignment line being perpendicular to said first alignment line, parallel to said first plane of said ball striking face; and wherein said first alignment line and said second alignment line intersect to form four angles.

2. (Original) The putter type golf club of claim 1 wherein said upper edge of said handle is further defined by a flat upper surface.
3. (Original) The putter type golf club of claim 1 wherein said handle extends at least half of the overall length of the golf club from said club head to said upper end of said shaft.
4. (Original) The putter type golf club of claim 1 wherein the first alignment line is longer than the second alignment line.
5. (Original) The putter type golf club of claim 1 wherein the first alignment line and second alignment line intersect to form a cross.
6. (Previously Presented) A putter type golf club including a club head having a ball striking face lying in a first plane and a shaft having an upper end and a lower end connected to the club head, wherein the improvement comprises:
 - an elongated handle having an upper edge and a lower edge, said handle being attached to said shaft and having a generally oval, cross-sectional shape along the entire handle between said upper edge and said lower edge;
 - said upper edge of said handle including alignment indicia, defined by at least a first alignment line in a direction perpendicular to the first plane of said ball striking face and a second alignment line on said upper edge of said handle, said second alignment line being perpendicular to said first alignment line, parallel to said first plane of said ball striking face; and wherein said first alignment

line and said second alignment line intersect to form four angles.

7. (Previously Presented) The putter type golf club of claim 6 wherein said upper edge of said handle is further defined by a flat upper surface.

8. (Previously Presented) The putter type golf club of claim 6 wherein said handle extends at least half of the overall length of the golf club from said club head to said upper end of said shaft.

9. (Previously Presented) The putter type golf club of claim 6 wherein the first alignment line is longer than the second alignment line.

10. (Previously Presented) The putter type golf club of claim 6 wherein the first alignment line and second alignment line intersect to form a cross.

11. (Previously Presented) A putter type golf club including a club head having a ball striking face lying in a first plane and a shaft having an upper end and a lower end connected to the club head, wherein the improvement comprises:

an elongated handle having an upper edge and a lower edge, said handle being attached to said shaft;

said upper edge of said handle including alignment indicia, defined by at least a first alignment line in a direction perpendicular to the first plane of said ball striking face and a second alignment line on said upper edge of said handle, said second alignment line being perpendicular to said first alignment line, parallel to said first plane of said ball striking face; and wherein said first alignment line and said second alignment line intersect to form four angles.

12. (Previously Presented) The putter type golf club of claim 11 wherein said upper edge of said handle is further defined by a flat upper surface.

13. (Previously Presented) The putter type golf club of claim 11 wherein said handle extends at least half of the overall length of the golf club from said club head to said upper end of said shaft.

14. (Previously Presented) The putter type golf club of claim 11 wherein the first alignment line is longer than the second alignment line.

15. (Previously Presented) The putter type golf club of claim 11 wherein the first alignment line and second alignment line intersect to form a cross.

EVIDENCE APPENDIX

Not Applicable

RELATED PROCEEDINGS APPENDIX

Not Applicable